

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.:	10/804,958	Confirmation No.:	9176
Applicant(s):	Chanh C. Vo, et al.		
Filed:	03/19/2004		
Art Unit:	2883		
Examiner:	Dinh D. Chiem		
Title:	OPTICAL TERMINATION PEDESTAL		

Docket No.: HE0222
Customer No.: 21495

Mail Stop Appeal Brief – Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

A **REPLY BRIEF** is filed herewith in response to the Examiner's Answer mailed April 29, 2010. If any fees are required in association with this Reply Brief, the Director is hereby authorized to charge them to Deposit Account 03-3325, and consider this a petition therefor.

REPLY BRIEF

A. Introduction

Appellant argued in the Appeal Brief filed February 4, 2010, that neither O'Neill nor Clapp, either alone or in combination, can be considered to include a “pedestal base” with a “housing positioned over the pedestal base” as recited in independent claims 1, 17, and 28. In addition, neither O'Neill nor Clapp, alone or in combination, teaches or suggests “a plate secured to one of the housing and the pedestal base and operable for separating the interior cavity into a first compartment disposed within the housing and a second compartment disposed within the housing” as recited in claims 1, 17, and 28.

With respect to dependent claim 8, which further defines the claimed plate of claims 1, 17, and 28, O'Neill fails to disclose “a mounting plate having at least one connector port mounted thereon.”

With respect to claims 7, 9, 10, 23, 24, and 31, the combination of O'Neill and Clapp does not teach or suggest all features in independent claims 1, 17, and 28 as discussed above, the base claims from which claims 7, 9, 10, 23, 24, and 31 depend either directly or indirectly. Saito also fails to address the deficiencies of O'Neill and Clapp. O'Neill, Clapp and Saito, either alone or in combination, does not teach or suggest “a plate secured to one of the housing and the pedestal base and operable for separating the interior cavity into a first compartment disposed within the housing and a second compartment disposed within the housing.”

Appellant relies upon the arguments made in the Appeal Brief filed February 4, 2010 and incorporates the same by reference herein in its entirety. In addition, Appellant addresses certain points in the Examiner's Answer mailed April 29, 2010 as detailed below.

B. Argument

1. Independent claims 1, 17, and 28 are Patentable over O'Neill in view of Clapp

Independent claims 1, 17, and 28 all recite “a pedestal base” and “a housing positioned over the pedestal base.” This feature is neither taught nor suggested by O'Neill or Clapp, alone or in combination. O'Neill fails to disclose any structure that can

be considered a pedestal base as required by the claims. Page 2 of the Office Action mailed on July 22, 2009 points to elements 12, 21, and 24 as providing the “pedestal base” of the claims, as best as Appellant can discern. As shown in Figure 1 of O’Neill, reproduced below, O’Neill does disclose a “[c]ontainer 10 [that] is closed by end cap 12.” O’Neill, col. 2, ll. 33-34. “In use, brim 22 is in contact with the interior surface of container 10 to form a seal.” O’Neill, col. 2, ll. 38-39. However, the “end cap 12” is not a pedestal base. The container 10 in O’Neill completely surrounds the end cap 12 with the lower edge of the end cap 12 being flush with the lower end of the container 10. Accordingly, the end cap 12 and brim 22 of O’Neill serve to seal the end of the container 10. The “end cap 12” of O’Neill is not disclosed as supporting the “container 10” or configured to be disposed in the ground to provide a pedestal base for the “container 10.” The end cap 12 is thus not a “pedestal” base designed to provide support for the claimed “housing positioned over the pedestal base.”

Page 7 of the Examiner’s Answer states that “O’Neill clearly teaches end cap 12 is “a base” by providing indirect support for pail 21 and splice tray 24 by two vertical bars” seen in Figures 1 and 7 of O’Neill, and on page 6 cites Merriam-Webster Online definition: “**Pedestal** n. 2. Base, Foundation.” Appellant respectfully disagrees with the Examiner’s Answer’s characterization of “a base” as interpreted in O’Neill.

The claimed pedestal base is described in paragraph [0025] of the Specification:

A housing 28 is positioned over a conventional pedestal base 30 or onto a similar base incorporated into a below-grade vault or hand hole. The base 30 shown defines an integral stake feature 32 and is self-supporting. However, the base 30 and housing 28 may also be stake-mounted on the ground or pole-mounted above the ground.

Appellant asserts that there is no resemblance, either in form or function, between the claimed base and end cap 12 to O’Neill.

Independent claims 1, 17, and 28 all disclose “a plate secured to one of the housing and the pedestal base and operable for separating the interior cavity into a first compartment disposed within the housing and a second compartment disposed within the housing.” Neither O’Neill nor Clapp, alone or in combination, teaches or suggests this limitation. O’Neill fails to disclose “a plate secured to one of the housing and the

pedestal base and operable for separating the interior cavity into a first compartment disposed within the housing and a second compartment disposed within the housing,” as recited in claims 1, 17, and 28. Page 2 of the Office Action mailed July 22, 2009 equates element 26 of O’Neill to the claimed plate. O’Neill discloses that “light waveguides in buffer tubes 23 must proceed through the closed bottom of vessel 21,” which “is facilitated by a series of circular areas 26 in the bottom of vessel 21 of reduced thickness.” O’Neill, col. 2, ll. 42-46; see also Fig. 1. The circular areas 26 of O’Neill are merely areas of reduced thickness at the bottom of vessel 21, and thus do not comprise a plate.

Page 8 of the Examiner’s Answer states O’Neill in view of Clapp teach the limitation “plate secured to one of the housing and the pedestal base and operable for separating the interior cavity into a first compartment disposed within the housing and a second compartment disposed with in the housing.” Appellant submits that the Examiner’s Answer seems to be relying on a comparison of “pail 21,” also recited in O’Neill as “silicone rubber vessel 21,” to the claimed plate, described in the Specification, paragraph [0027], wherein “mounting plate 38 is circular shaped and may be provided with an O-ring.” Furthermore, claims 1, 17 and 28 recite “a plate secured to one of the housing and the pedestal base and operable for separating the interior cavity into a first compartment disposed within the housing and a second compartment disposed within the housing, wherein the first compartment and the second compartment are substantially free of a gel encapsulant material,” and O’Neill teaches away from the limitation of “substantially free of a gel encapsulant material.” O’Neill recites “[i]n actual use, vessel 21 will be filled up to surface 25 with an encapsulant which is a gel preventing access of water to splice tray 24...” O’Neill, col. 2, ll. 51-55

Accordingly, neither O’Neill nor Clapp, alone or in combination, teaches or suggests “a plate secured to one of the housing and the pedestal base and operable for separating the interior cavity into a first compartment disposed within the housing and a second compartment disposed within the housing, wherein the first compartment and the second compartment are substantially free of a gel encapsulant material,” as set forth in independent claims 1, 17, and 28. Claims 1, 17, and 28 are thus patentable for this additional reason.

2. Claim 8 is Separately Patentable over O'Neill in view of Clapp

Independent claims 1, 17 and 28 all disclose “a plate having at least one connector port thereon.” Neither O'Neill nor Clapp, alone or in combination, teaches or suggests the claimed plate of claims 1, 17, and 28. Claim 8 further defines the claimed plate of the invention. In particular, claim 8 recites “wherein the plate comprises a mounting plate having at least one connector port mounted thereon.” Page 4 of the Office Action mailed July 22, 2009 equates element 26 of O'Neill to the claimed plate of claim 8. Appellant respectfully disagreed. O'Neill discloses that “light waveguides in buffer tubes 23 must proceed through the closed bottom of vessel 21,” which “is facilitated by a series of circular areas 26 in the bottom of vessel 21 of reduced thickness.” O'Neill, col. 2, ll. 42-46; see also Fig. 1. However, there is no connector port mounted on the circular areas 26 of O'Neill. O'Neill, Fig. 1. Thus, O'Neill fails to disclose “a mounting plate having at least one connector port mounted thereon,” as recited in claim 8. Claim 8 is thus patentable for this additional reason.

Page 8 of the Examiner's Answer states “since the metal structure at 26 is considered having a relatively flat bottom wherein plural ports 26 are formed therein.” Examiner's Answer goes on to state “[p]lural ports 26 are through-holes provided for spliced fiber within the first compartment extending from splice tray 24 to be connected to plural ports 9. Since plural ports 26 are formed within the plate, prior art to O'Neill is deemed to anticipate this limitation.” Appellant respectfully disagrees with the Examiner's Answer, in that O'Neill does not teach “through-holes”, but rather “a series of circular areas 26 in the bottom of vessel 21 of reduced thickness.” O'Neill, col. 2, ll. 42-46; see also Fig. 1. O'Neill teaches “circular areas 26” of “reduced thickness” that may be “breached” or pierced: “...only a minimum number of areas 26 need to be breached...” O'Neill, col. 2, ll. 46-47. Appellant also respectfully submits that the “a series of circular areas 26,” as recited by O'Neill, not only does not provide for a connector port “mounted upon a connector plate,” but does not provide for anything mounted upon the “a series of circular areas 26.” Appellant respectfully submits that O'Neill does not teach or suggest “a mounting plate having at least one connector port mounted thereon.” Claim 8 is thus patentable for this additional reason.

3. Claims 7, 9, 10, 23, 24, and 31 are Patentable over O'Neill in view of Clapp and in further view of Saito

Independent claims 1, 17, and 28 recite a “pedestal base” and “a plate secured to one of the housing and the pedestal base and operable for separating the interior cavity into a first compartment and a second compartment within the housing.” Neither O'Neill, Clapp nor Saito, alone or in combination, teaches these features, as previously stated. For at least these reasons, claims 7, 9, 10, 23, 24, and 31, which depend, either directly or indirectly, from independent claims 1, 17, and 28, are patentable.

4. Claims 23, 24 and 31 are patentable over O'Neill in view of Clapp and in further view of Saito

Independent claims 1, 17, and 28 recite “wherein the means for interconnecting comprises at least one connector port mounted on the plate.” Neither O'Neill, Clapp nor Saito, alone or in combination, teaches these features, as previously stated. For at least these reasons, claims 23, 24 and 31, which depend, either directly or indirectly, from independent claim 17, are patentable.

C. Conclusion

Based on the above arguments, as well as those in Appellant's Appeal Brief, Appellant respectfully submits that O'Neill, Clapp or Saito, alone or in combination, does not disclose a pedestal base, and “a plate secured to one of the housing and the pedestal base and operable for separating the interior cavity into a first compartment and a second compartment within the housing,” as recited in independent claims 1, 17, and 28. In addition, O'Neill, Clapp or Saito, alone or in combination, does not disclose, teach, or suggest the feature in claims 1, 17, and 28 of wherein the first compartment and the second compartment are substantially free of a gel encapsulant material.”

With respect to claim 8, O'Neill, Clapp or Saito, alone or in combination, does not disclose “a plate having at least one connector port thereon.”

For the above reasons, Appellant respectfully submits that independent claims 1, 17, and 28 and dependent claim 8 of the present application are allowable. In addition,

claims 7, 9, 10, 23, 24, and 31, which depend, either directly or indirectly, from independent claims 1, 17, and 28 are allowable.

Appellant accordingly requests that the Board reverse the Examiner and instruct the Examiner to allow the claims for these reasons.

Respectfully submitted,



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Jessica L. Cheek

